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## GARNISHMENT OF A NON-RESIDENT.

*Editor Virginia Law Register :*

In answer to the communication of J. W. Read in VIRGINIA LAW REGISTER for July with reference to garnishment proceeding against a non-resident garnishee :

While the section of the Code to which he refers (sec. 3609) does not provide any adequate remedy for a garnishment proceeding against a non-resident garnishee, there is an adequate and expedient remedy for a case of this kind in secs. 3601 to 3605. This can be best illustrated by the solution of the hypothetical case stated, namely: A has a judgment against B for \$1,000, and C, of North Carolina, owes B \$500, and has \$1,000 on deposit in the Lynchburg National Bank. How would A reach this fund?

First, let A obtain judgment against B on his debt, and let a *fiери facias* issue. Section 3601 makes this a lien on all of the personal estate of or to which the judgment debtor is, or may afterwards and before the return day of said writ, become possessed or entitled, and which is not capable of being levied on under section 3587. The debt from C to B is a chose in action and is personal property within the meaning of section 3601, and therefore A's *fiери facias* is a lien on this evidence of debt from C to B.

Now, section 3603 provides that, "to ascertain the estate on which a writ of *fiери facias* is a lien, and to ascertain any real estate in or out of this State, to which a debtor named in such *fiери facias* is entitled, the judgment creditor may file interrogatories to the debtor, and a copy of the judgment, with a commissioner of any circuit or corporation court, who shall issue a summons as in the cases provided for by section 3370. . . . The debtor served with such summons shall, within the time prescribed therein, file answers upon oath to said interrogatories," etc. Under this statute let A file interrogatories and a copy of his judgment with the proper commissioner, and make B disclose that C is indebted to him in the sum of \$500, and has \$1,000 in said bank.

Section 3604 provides that "any real estate out of this State, to which it may appear by such answers that the debtor is entitled, shall be forthwith conveyed by him to the officer to whom was delivered the said *fiери facias*; and any money, bank notes, securities, evidences of debt, or other personal estate, which it may appear by such answer are in the possession or under the control of the debtor shall be delivered by him, as far as practicable, to the same officer, or to such other, and in such manner as may be ordered by the court when the answers are in court, or by the commissioner when the answers are not in court."

Under this statute let the note, evidence of debt, or right of action which B has against C be delivered or assigned to the officer of the court who holds the *fiери facias*, and then let him proceed to collect the debt of C as he would any other debt, by amicable means if he can, by stringent means if he must. I think this covers the ground fully.

*Culpeper, Va.. July 20, 1897.*

J. GEO. HIDDEN.